IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 8TH NOVEMBER 2006 / 17TH KARTHIKA 1928

WP(C).No. 29324 of 2006(N)

PETITIONER:

N.RAJA MOHAN,
S/O.K.S.NANADAGOPAL,
K.S.N.HOUSE, PANCHAYATH BOARD STREET,
CUMBUM PUDUPATTY-625 556.

BY ADV. SRI.PHILIP T.VARGHESE

RESPONDENTS:
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1. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. VANDANMEDU GRAMA PANCHAYATH,
VANDANMEDU P.O.,
REP. BY ITS SECRETARY.

3. THE DISTRICT COLLECTOR,
IDUKKI.

4. THE BLOCK OFFICER,
KATTAPPANA.

BY SENIOR GOVERNMENT PLEADER SRI.MATHEW G.VADAKKEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE,J.

W.P.(C) NO.29324 OF 2006

Dated this the 8th day of November, 2006

J U D G M E N T

The allegation of the petitioner in this writ petition is that the 2nd respondent Panchayat is going to encroach upon a private pathway belonging to him and widen the same as though the pathway is one which has become vested in the Panchayat.

I am of the view that the proper remedy for the petitioner is to approach the civil court. But then referring to Section 249(1) (a) of the Kerala Panchayat Raj Act, 1994, the petitioner submits that if he has to wait till expiry of the notice period, the proposed suit itself will become infructuous. Exhibit P2 suit notice has already been issued. As per that, notice period will expire by 10.12.2006. In view of the above reason, the ground appears to be somewhat genuine. The writ petition will stand disposed of directing the petitioner to go in for suit when the period of notice as per Exhibit P2 expires. Petition is disposed of accordingly. However, the statusquo obtaining as of now regarding the pathway in question covered by Exhibit P1 deed will be maintained by the petitioner as well as all the respondents till 15.12.2006.

PIUS C.KURIAKOSE, JUDGE

Rp